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RUEHLP/AMEMBASSY LA PAZ JUL LIMA 7707  
RUEHZP/AMEMBASSY PANAMA 3814  
RUEHQD/AMEMBASSY QUITO 8404  
RUEHGL/AMCONSUL GUAYAQUIL 4939  
RUEHC/DEPT OF LABOR WASHDC  
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C O N F I D E N T I A L BOGOTA 002186

SIPDIS

E.O. 12958: DECL: 07/08/2019  
TAGS: [ELAB](#) [KJUS](#) [PHUM](#) [PREL](#) [PGOV](#) [CO](#)  
SUBJECT: PORT DEMONSTRATIONS TURNOUT LOW, STRIKE NOT VIABLE

REF: A. 08 BOGOTA 4125  
[¶](#)B. BOGOTOA 1751

Classified By: Acting Deputy Chief of Mission Lawrence J. Gumbiner  
Reasons 1.4 (b and d)

SUMMARY

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[¶](#)1. (U) Port laborers in Santa Marta, Cartagena, and Buenaventura marched July 3 to protest the GOC's alleged failure to meet its November 2008 promises. Low turnout and widespread fear of reprisals forced labor leaders to realize a planned strike July 13 was not viable. Ministry of Social Protection Director of Inspections and Oversight Luz Estella Veira called the laborers' accusations that the GOC had ignored its commitments "unfounded" and highlighted GOC efforts since the November negotiations. Labor activists are encouraged by recent court decisions granting legal "worker" rights--which include the right to unionize and strike and provide guarantees on benefits, wages, and full-time employment--to cooperative workers. End Summary.

PORT DEMONSTRATIONS WILL NOT END IN STRIKE

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[¶](#)2. (U) Port laborers in Santa Marta, Cartagena, and Buenaventura demonstrated July 3 to protest what they deemed were GOC failures to meet promises made in November 2008 to avert a work stoppage in Buenaventura (Valle de Cauca), Colombia's largest port (REF A). AFL-CIO Solidarity Center Regional Director Rhett Doumitt told us turnout was low--under 200 in each location. Doumitt described anxiety in Buenaventura where laborers expressed unwillingness to protest for fear of employer reprisals, and bystanders would only accept protesters' materials out of sight of the port entrance.

[¶](#)3. (SBU) Port labor leaders had initially threatened a work stoppage for July 13 if demands to meet with Ministries of Social Protection (MSP) and Transportation were not met. Doumitt told us that his office considered a port strike "premature" and had been advising port laborers to adopt a less confrontational strategy. Doumitt said it was ultimately the low turnout and widespread fear, however, that awakened labor leaders to the impossibility of striking. The Solidarity Center--through its USAID-funded "Trade Union

"Strengthening in Colombia" program--will assist the port laborers in developing "more sophisticated" demands and in negotiating with the GOC.

¶ 14. (U) Buenaventura port laborers' November demands included: direct negotiation with port operators; abolishment of Associated Worker Cooperatives (AWC laborers are not legally defined as "workers" under article 5 of the Substantive Work Code -- REF B); receipt of regular hours, wages, and sick leave; and a commitment by the privatized port authority to invest more in the community. Harold Alegria, president of the Buenaventura section of SINTRAMARITIMO--an organized "association" of port laborers--not legally a union since the majority of its members are AWC laborers--alleged that the GOC has failed to meet essentially all of its November commitments. He highlighted the failure to meet with laborers, and the sanctioning of port companies who violate labor laws, as particularly egregious.

¶ 15. (U) MSP Director of Inspections and Oversight Luz Estella Veira said the laborers' accusations were unfounded. She noted that since the November compromise, the GOC had inspected 110 companies, sanctioning 24 percent and instructing an additional 42 percent to work on identified labor issues. She added the MSP had initiated five meetings between laborers, port operators, and municipal governments since November.

#### LABOR ACTIVISTS ENCOURAGED BY EMERGING JURISPRUDENCE

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¶ 16. (SBU) Doumitt reported the Solidarity Center and its partner unions are optimistic about two recent court decisions that grant legally defined "worker" rights to AWC employees. In the case of a sugarcane AWC laborer, the Constitutional Court determined a de facto worker-employer relationship existed ("contract in reality") even without a written contract, and ruled the AWC laborer was entitled to "worker" benefits under the law. The Council of State (Consejo de Estado), the country's highest administrative court, issued a similar ruling in the case of a GOC AWC employee.

¶ 17. (C) Doumitt said the new jurisprudence appeared to have positively influenced out-of-court negotiations with a Cartagena port operator that had barred 22 AWC laborers from work after they participated in a February 2009 Solidarity Center assembly in Barranquilla on labor rights and the right to organize. Now faced with litigation that could potentially lead to another "contract in reality" decision--which might then be applied to all of the company's 120 AWC laborers--the company recently offered the 22 laborers direct hire employment.  
Brownfield